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Attorneys for Specially Appearing  
 Defendants, BYRIDER FRANCHISING,  
 INC. (erroneously sued and served as J.D.  
 Byrider, Inc.), Grace Auto, Inc. dba J.D.  
 Byrider (erroneously sued as JD Byrider  
 of Chandler), and Grace Finance, Inc. dba  
 CNAC (erroneously sued as CarNow  
 Acceptance Company)

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

JESSICA HARTUNG, an individual,

Plaintiff,

vs.

J.D. BYRIDER, INC.; JD BYRIDER  
 OF CHANDLER; CARNOW  
 ACCEPTANCE COMPANY; JOHN  
 ANDERSON; and T-MOBILE USA,  
 INC. and DOES 1 through 10 inclusive,

Defendants.

CASE NO. C 08-01380 SC

**STIPULATION TO DISMISS  
 GRACE AUTO, INC. AND TO  
 TRANSFER THIS ACTION TO  
 THE EASTERN DISTRICT OF THE  
 UNITED STATES DISTRICT  
 COURT OF CALIFORNIA AND  
~~[PROPOSED]~~ ORDER THEREON**

[Notice of Withdrawal of Motion to  
 Dismiss for Lack of Personal  
 Jurisdiction Filed Concurrently  
 Herewith]

**Assigned to Hon. Samuel Conti**

IT IS HEREBY STIPULATED by and between plaintiff JESSICA HARTUNG  
 (hereinafter "Plaintiff"), specially appearing defendants, BYRIDER FRANCHISING,  
 INC. (erroneously sued and served as J.D. Byrider, Inc.), GRACE AUTO, INC. dba  
 J.D. Byrider (erroneously sued as JD Byrider of Chandler), and GRACE FINANCE,  
 INC. dba CNAC (erroneously sued as CarNow Acceptance Company) (collectively,

1 "Specially-Appearing Defendants") , and defendant T-MOBILE USA, INC. ("T-  
2 Mobile"), through their respective attorneys of record, as follows:

3 1. GRACE AUTO, INC. dba J.D. Byrider (erroneously sued as JD Byrider of  
4 Chandler) has alleged it has insufficient minimum contacts with the State of California  
5 for this Court to exercise personal jurisdiction. Accordingly, GRACE AUTO, INC. and  
6 Plaintiff agree that GRACE AUTO, INC. shall be dismissed, without prejudice, from  
7 the above-entitled action pursuant to Federal Rules of Civil Procedure 41(a);

8 2. Plaintiff and Specially Appearing Defendants agree that this action should  
9 have been brought in the United States District Court of California, Eastern District,  
10 Fresno Division (i.e., at the time this action was commenced Plaintiff resided in  
11 Stanislaus County, California and a significant part of the alleged acts took place in said  
12 county), and that such transfer would serve the convenience of the parties and  
13 witnesses. All parties agree to transfer of this action to the Eastern District, Fresno  
14 Division pursuant to 28 U.S.C. § 1404;

15 3. Plaintiff and Specially Appearing Defendants agree that the foregoing  
16 stipulations effectively resolve the issues of personal jurisdiction and venue raised in  
17 Specially Appearing Defendants' Motion to Dismiss for Lack of Personal Jurisdiction,  
18 or in the alternative, Transfer Venue, which is currently set for hearing on July 25,  
19 2008, and that this motion shall be taken off-calendar;

20 4. The parties agree that the issue of whether Plaintiff may be compelled to  
21 arbitrate her claims has not been resolved and that BYRIDER FRANCHISING and  
22 GRACE FINANCE are entitled to re-file or re-notice their Motion to Compel  
23 Arbitration once this case has been transferred to a court in the Eastern District, Fresno  
24 Division and that BYRIDER FRANCHISING and GRACE FINANCE's execution of  
25 this Stipulation shall not constitute in any way a waiver of their right to bring a Motion  
26 to Compel Arbitration and Stay Proceedings or be used as a basis for opposing any such  
27 motion brought by said defendants;

28 ///

5. The parties agree that T-Mobile is entitled to respond to Plaintiff's Complaint, in the event it does not reach settlement with Plaintiff, with a Motion to Compel Arbitration and Stay Proceedings, and that T-Mobile's execution of this Stipulation shall not constitute in any way a waiver of T-Mobile's right to bring a Motion to Compel Arbitration and Stay Proceedings or be used as a basis for opposing any such motion brought by T-Mobile;

6. Plaintiff and Specially Appearing Defendants agree that BYRIDER FRANCHISING and GRACE FINANCE will file a Notice of Withdrawal of their Motion to Dismiss pursuant to Local Rule 7-7(e).

**IT IS SO STIPULATED.**

DATED: July 9, 2008

**MURCHISON & CUMMING, LLP**

By: 

Michael B. Lawler  
Kasey C. Townsend  
Anastasia K. Mazzella  
Attorneys for Specially Appearing  
Defendants, BYRIDER FRANCHISING,  
INC. (erroneously sued and served as J.D.  
Byrider, Inc.), Grace Auto, Inc. dba J.D.  
Byrider (erroneously sued as JD Byrider of  
Chandler), and Grace Finance, Inc. dba  
CNAC (erroneously sued as CarNow  
Acceptance Company)

DATED: July 7, 2008

**LAW OFFICES OF ERIC F. FAGAN**

By: s/ Jeremy S. Golden

Jeremy S. Golden  
Attorneys for Plaintiff, JESSICA  
HARTUNG

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1 DATED: July 8, 2008

PERKINS COIE LLP

2  
3 By: s/Christopher M. Jhang  
4 Jason A. Yurasek  
5 Christopher M. Jhang  
6 Attorneys for Defendant T-MOBILE USA,  
7 INC.

8  
9 **ORDER OF THE COURT**

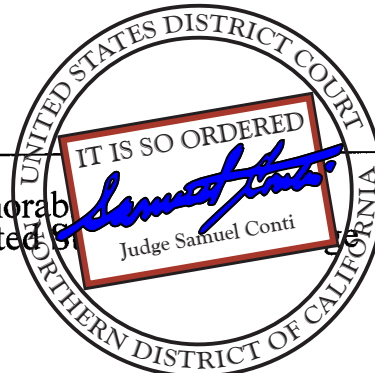
10 The Court has received and considered the Stipulation to dismiss defendant  
11 GRACE AUTO, INC. and transfer this case to the United States District Court of  
12 California, Eastern District, Fresno Division. The Court has reviewed the Stipulation and  
13 matter, and determined that there is good cause for the dismissal and transfer. Therefore,

14 **PURSUANT TO STIPULATION, IT IS HEREBY ORDERED** that:

- 15 1. GRACE AUTO, INC. is hereby dismissed from the above-entitled action,  
16 without prejudice;  
17 2. The matter is transferred to the United States District Court of California,  
18 Eastern District, Fresno Division;  
19 3. All scheduling orders in this matter are set aside and all scheduling and  
20 other pretrial conferences that have been set are off calendar;  
21 4. Specially Appearing Defendant's Motion to Dismiss, which is set for  
22 hearing on July 25, 2008 at 10:00 a.m., is hereby off-calendar;  
23 5. The defendants are entitled to assert issues of arbitration, which shall be  
24 determined by the transferee court.

25 Dated: July 10, 2008

26 Honorable  
27 United States



28 J:\AKMJD BYRIDER\_Final\STIP & ORD-070708.akm

**PROOF OF SERVICE**

**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 801 South Grand Avenue, 9th Floor, Los Angeles, California 90017-4613.

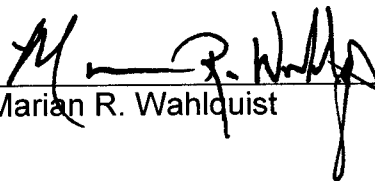
On July 9, 2008, I served true copies of the following document(s) described as **STIPULATION TO DISMISS GRACE AUTO, INC. AND TO TRANSFER THIS ACTION TO THE EASTERN DISTRICT OF THE UNITED STATES DISTRICT COURT OF CALIFORNIA AND [PROPOSED] ORDER THEREON** on the interested parties in this action as follows:

**SEE ATTACHED LIST**

**BY E-MAIL OR ELECTRONIC TRANSMISSION:** Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the document(s) to be sent from e-mail address mwahlquist@murchisonlaw.com to the persons at the e-mail addresses listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on July 9, 2008, at Los Angeles, California.

  
Marian R. Wahlquist

**SERVICE LIST**

**Jessica Hartung vs. JD Byrider, Inc., JD Byrider of Chandler, CarNow Acceptance Company, John Anderson and T-Mobile USA, et al,**

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Attorneys for Defendant, T-Mobile USA, Inc.